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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Francis D. Palazzo

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EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/022,649

Applicant(s)

PALAZZO ET AL.

Examiner

Jason P. Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 16-32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16-21 and 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fries (U.S. Patent No. 6,317,885) in view of Alexander et al. (U.S. Patent No. 6,177,931).

Referring to claim 16, Fries discloses providing access to EPG features from within broadcast advertisements (see Figure 6 for accessing program listings (one broadcast advertisement) from within broadcast advertisements (the page options presented in Figure 6)).

Fries also discloses receiving the broadcast advertisement comprising audio, video and promotional metadata over a broadcast distribution network (see Column 3, Lines 24-28 for receiving audio and video over a broadcast distribution network, Column 3, Lines 66-67 and Column 4, Lines 1-3 for providing information pages (metadata), and Column 6, Lines 52-55 to teach that the information pages can be sent from advertisers,

therefore teaching that the metadata is promotional metadata), the promotional metadata including a plurality of data items (see Figure 6 for the promotional page (containing advertisements) consisting of a plurality of data items), the data items including a promotion type ("Market Report" option in Figure 6 or the page accessed in Figure 8) and an EPG feature ("Television Listings" option in Figure 6), the promotion type including a purchasable event (see "Purchase Now" option in Figure 8) and an interactive advertisement (see "Selection Chart" option in Figure 8).

Fries also discloses displaying the interactive advertisement (see again Figure 8 for the "Selection Chart"), but fails to teach the selectable option to store the interactive advertisement for future viewing on a DVR.

Alexander discloses presenting an interactive advertisement, the interactive advertisement including a selectable option for the user to store the interactive advertisement for future viewing on a DVR, receiving the user's selection to store the interactive advertisement for future viewing of the interactive advertisement on the DVR and storing the interactive advertisement on the DVR (see Column 4, Lines 28-43 and Column 19, Line 46 through Column 20, Line 12).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG, as taught by Fries, using the recordable interactive advertisement feature, as taught by Alexander, for the purpose of providing improved opportunities for the commercial advertiser to reach the viewer (see Column 2, Lines 13-14 of Alexander).

Referring to claim 17, Fries also discloses presenting a broadcast advertisement based on the data items (see Figure 6 for displaying broadcast advertisements available for selection), the broadcast advertisement including the EPG feature (again note that the broadcast advertisements in Figure 6 contain the broadcast advertisement for selecting television listings and therefore a broadcast advertisement in the list of broadcast advertisements includes an EPG feature).

Fries also disclose executing the EPG feature when selected from within the broadcast advertisement by the user (see Column 7, Lines 17-21).

Fries also discloses that the EPG feature accesses on-online content (see Column 4, Lines 1-16).

Fries also discloses collecting payment information, if the promotion type is the purchasable event (see Column 13, Line 55 through Column 14, Line 57 and Figure 7). Note Column 14, Line 48 for collecting a payment method/information.

Referring to claim 18, Fries discloses that a plurality of promotions is interspersed among the broadcast audio and video content (see Column 5, Lines 37-50 and Lines 60-67 for extracting audio, video and data packets interspersed within a 6 megahertz television channel, according to their PIDs).

Referring to claim 19, Fries discloses presenting the promotion within an EPG, when the promotion type is the interactive advertisement (see Figures 6 and 8 for

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presenting a promotion "MARKET REPORT" within an EPG 108, where the promotion is the interactive advertisement).

Referring to claim 20, Fries discloses that the data items include a web action (see anchor focus area action in the table under Column 8) and a web address (see Column 22, Line 67 through Column 23, Line 3 for the data containing information for linking to another page).

Fries also discloses receiving a selection of the web action and providing access to a web page associated with the web address (see Figure 6 and Column 6, Line 66 through Column 7, Line 53 for displaying a menu web page and selecting a link from the page and accessing other web pages from the current page).

Referring to claim 21, Alexander discloses the use of a PIP window to display advertisements (see Figure 1), therefore, the web page advertisements presented by Fries could be modified to display the web page advertisements in a PIP window.

Referring to claim 24, Fries discloses storing a plurality of promotions (see browser 62 in Figure 3 and Column 6, Lines 35-42).

Fries also discloses presenting the stored promotions (see Figure 6).

Referring to claim 25, Fries discloses that the data items are selected from an EPG action (see Figure 6 and Column 7, Lines 40-47 for the ESPN pages containing EPG actions).

Referring to claim 26, Fries discloses that the EPG action is selected from a pay-per-view purchase (see Column 13, Lines 47-64).

Referring to claim 27, see the rejection of claim 16 and note that Fries further teaches a plurality of navigation tools (see the table in Column 10-12), a display interface to present the presentation and navigation tools on a display device (see Figures 6 and 8) and wherein the navigation tools provide interaction with the EPG action within the promotion (see Figures 6 and 8).

Referring to claims 28-32, see the rejection of claims 17-19 and 25-26, respectively.

3. Claims 22-23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fries (U.S. Patent No. 6,317,885) in view of Alexander et al. (U.S. Patent No. 6,177,931) in further view of Lawler et al. (U.S. Patent No. 5,699,107) in further view of Matthews, III et al. (U.S. Patent No. 6,025,837).

Referring to claim 22, Fries and Alexander disclose all of the limitations in claim 17, as well as Fries disclosing displaying data items on a television display (see Figures 6 and 8), but fails to teach the additional limitations in the claim.

Lawler discloses a displaying data items on a television display, the data items including a show date, show time and tune action (see Figure 3 and note that the tune action is the channel number the viewer must tune to or the cell that can be selected by the user).

Lawler also discloses determining whether the promotion is for an event that is presently playing using the data items (see step 224 in Figure 4A), the data items including a show date and show time (see Figure 3).

Lawler also discloses setting a reminder, when a program reminder is selected and the event is not presently playing (see step 236 in Figure 4A and step 314 in Figure 7 and Figure 8).

Lawler also discloses tuning the event, when the event is presently playing (see Column 10, Lines 10-14).

At the time the invention was made, it would have been obvious to modify the system of Fries and Alexander, using the reminder system of Lawler, for the purpose of allowing a user to quickly and easily find and select desired future programs for reminding (see Column 2, Lines 8-10 of Lawler).

Fries and Lawler fail to disclose tuning the event, when the event is presently playing and the program reminder is not selected (thereby implying that the channel is automatically tuned to after the reminder is displayed).



Matthews discloses setting a reminder and automatically tuning to the channel after the reminder has been displayed (see Column 12, Lines 31-36).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the reminder system of Fries, Alexander and Lawler, using the automatic tuning reminder system, as taught by Matthews, for the purpose of providing a better way of integrating supplemental content, be it on the Internet or elsewhere, with conventional TV and movie programs (see Column 4, Lines 22-24 of Matthews).

Claim 23 corresponds to claim 22, Lawler further discloses setting a recording device, when the event is not presently playing and the program reminder is not selected (see Figure 10).

### ***Conclusion***

**4. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce  
Patent Examiner  
Art Unit 2623

May 9, 2006

A handwritten signature in black ink, appearing to read "Jason Salce", with a long horizontal stroke extending to the right.